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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,041	05/31/2001	William Grey	YOR920000517US1	9023
35526	7590	11/16/2004	EXAMINER	
DUKE, W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			MCCELLAN, JAMES S	
		ART UNIT		PAPER NUMBER
				3627

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/871,041	GREY ET AL.
Examiner	Art Unit	
James S McClellan	3627	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 18 August 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-57 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-57 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

### ***Amendment***

1. Applicant's submittal of an amendment was entered on August 18, 2004, wherein:
  - claims 1-57 and
  - claims 6-10 have been amended.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 6, 9-12, 16-21, 25, 28-31, 35-40, 44, 47-50, and 54-57 rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,397,212 (hereinafter “Biffar”).

Regarding **claim 1**, Biffar discloses a method in a computer system, said method comprising the steps of: receiving a general requirement (for example, see Figure 2, “Type”) that defines a particular type of item, said function capable of being performed by a plurality of different types of categories of items; receiving a specified utility for at least one of a plurality of types of items which would perform said function (for example, see Figure 2, “Brand”, “Price Range”, etc.); locating a plurality of available items which match at least one of said plurality of types of items (see results in Figure 6A); and ranking said located plurality of available items

utilizing said utility specified for at least one of said plurality of types of items (see column 10, lines 31-35); **[claim 2]** providing an intelligent software agent (see column 3, lines 21-25); receiving, utilizing said intelligent software agent, a general requirement; receiving, utilizing said intelligent software agent, a specified utility for each of a plurality of types of items which would perform said function; locating, utilizing said intelligent software agent, a plurality of available items which match one of said plurality of types of items; and ranking, utilizing said intelligent software agent, said located plurality of available items utilizing said utility specified for each of said plurality of types of items; **[claim 6]** wherein the step of ranking further comprises the step of comparing a price for each of said plurality of available items to a utility for one of said plurality of types of items which matches said each of said plurality of available items (see column 10, lines 31-35 and Figure 2, “Price Range”); **[claim 9]** setting a utility threshold; and locating a second plurality of available items which match one of said plurality of types of items and which exceed said utility threshold (see Figure 2, thresholds are set via characteristics); **[claim 10]** selecting one of said second plurality of available items having a lowest price (see column 5, lines 36-38); **[claim 11]** displaying said located plurality of available items (see column 4, lines 18-25); **[claim 12]** selecting one of said located plurality of available items (see column 7, lines 36-41); **[claim 16]** receiving said plurality of types of items specified by a user (see characteristic input by the user in Figure 2); **[claim 17]** receiving said plurality of types of items specified by executing a table lookup (column 5, lines 58-62); **[claim 18]** receiving said utility for each of said plurality of types of items specified by a user (see characteristic input by the user in Figure 2); and **[claim 19]** receiving a plurality of attributes for each of said specified plurality of types of items (see characteristic input by the user in Figure 2); receiving a weighting

value specified for each of said plurality of attributes (see column 8, lines 55-63); and determining an overall utility for each of said plurality of types of items utilizing said weighting value specified for each of said plurality of attributes (see column 8, lines 55-63).

Regarding independent **claim 20**, Biffar discloses a computer program product in a computer system comprising instruction means for conducting the steps of claim 1 (see detailed analysis above for claim 1). Likewise, dependent **claims 21, 25, 28-31, and 35-38** are rejected using the same analysis as set forth above for claims 2, 5, 9-12, and 16-19.

Regarding independent **claim 39**, Biffar discloses a computer system, wherein said computer system is for conducting the steps of claim 1 (see detailed analysis above for claim 1). Likewise, dependent **claims 40, 44, 47-50, and 54-57** are rejected using the same analysis as set forth above for claims 2, 5, 9-12, and 16-19.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, 13, 22, 23, 32, 41, 42, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biffar in view U.S. Patent Application No. US 2001/0037361 A1 (hereinafter “Croy”).

Regarding **claims 3, 22, 23, 41, and 42**, Biffar fails to disclose a client/server computer system.

Croy teaches the use of a client/server computer system (see pages 1-2; paragraphs 0013, 0015, and 0016) over the Internet (see page 2, paragraph 0017).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Biffar with client/server architecture as taught by Croy, because client/server architecture allows user to connect to the Internet and thereby have global communication.

Regarding **claims 13, 32, and 51**, Biffar fails to disclose utilizing an intelligent agent to complete purchase transaction. However, it is noted that Biffar allows a user to purchase a recommended item (see column 7, lines 36-41).

Croy teaches the use of utilizing an intelligent agent to complete purchase transaction (see page 5, paragraph 0055).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Biffar with automatic purchasing by an intelligent agent as taught by Croy, because allowing an intelligent agent to search for desirable products/services and simultaneously purchase the most desirable product/service because it further automates the purchasing process, wherein reducing the amount of time required by the user to purchase a desirable product/service.

6. Claims 7, 8, 26, 27, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biffar in view of Official Notice.

Biffar fails to explicitly disclose determining a difference or ration between price and utility. It is noted that Biffar determines both price and utility (see Figure 2). Additionally,

Art Unit: 3627

Biffar discloses that algorithms for selecting results can be simple or complex and may be selected from characteristics entered by the user (see column 8, lines 26-41).

The Examiner takes Official Notice that utilizing a difference in price and utility and utilizing a ratio between price and utility is old and well known in the art at the time the invention was made.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Biffar with algorithms for selecting results as is well known in the art, because both price and utility applications are importation factors in selecting a product or service, wherein finding utilizing a formula that provides a predetermined weight to each one will allow the user to customize the results to their personal requirements.

7. Claims 5, 14, 15, 24, 33, 34, 43, 52, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biffar in view of Croy as applied to claims 3, 4, 13, 22, 23, 32, 41, 42, and 51 above, and further in view of Official Notice.

Biffar in combination with Croy fail to explicitly disclose determining a difference or ration between price and utility. It is noted that Biffar determines both price and utility (see Figure 2). Additionally, Biffar discloses that algorithms for selecting results can be simple or complex and may be selected from characteristics entered by the user (see column 8, lines 26-41).

The Examiner takes Official Notice that utilizing a difference in price and utility and utilizing a ratio between price and utility is old and well known in the art at the time the invention was made.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Biffar/Croy with algorithms for selecting results as is well known in the art, because both price and utility applications are importation factors in selecting a product or service, wherein finding utilizing a formula that provides a predetermined weight to each one will allow the user to customize the results to their personal requirements.

Regarding **claims 5, 24, and 43**, the Examiner takes Official Notice that cars, motorcycles, and bicycles are old and well known categories.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Biffar/Croy with categories including cars, motorcycles, and bicycles as is well known in the art, because providing categories for items for sale (in this case, motorcycles and bicycles in addition to cars) helps user find the desired items.

*Response to Arguments*

8. Applicant's arguments filed August 18, 2004 have been fully considered but they are not persuasive.

On page 13, sixth paragraph, Applicant argues that Biffar does not disclose a general requirement a claimed by Applicants. The Examiner respectfully disagrees. Biffar allows the user to select from various categories. In the sport utility example, a general requirement not specific to a particular type of item is for example, "color" and "price" (see Figure 2). Color and price are general requirements not specific to a particular type of item.

On page 13, final paragraph, Applicant argues that Biffar does not disclosea plurality of different types of categories of items. The Examiner respectfully disagrees. As set forth in

Figures 2 and 4, Biffar discloses numerous different types of items including “sport utility” and “non-fiction books.

On page 14, first and second full paragraphs, Applicant argues that Biffar does not disclose receiving a utility for an item that would perform the function defined by the general requirement. The Examiner respectfully disagrees. In Figures 2 and 4, Biffar discloses various items of utility related to the general requirement (see Brand, Engine Size, etc.).

Applicant’s remaining arguments related to various rejections made under 35 U.S.C. § 103 appears to argue the some points answered above by the Examiner.

Applicant’s argument related to Official Notice are inadequate. As set forth in MPEP 2144.03 C, Applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. A general allegation of patentability is inadequate. Since Applicant failed to adequately traverse the Examiner’s assertion of Official Notice, the common knowledge is taken be admitted prior art (2144.03 C).

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

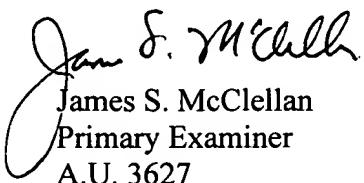
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks  
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or  
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

  
James S. McClellan  
Primary Examiner  
A.U. 3627

jsm; November 14, 2004